

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

CHRISTOPHER LEE SHADE,

Petitioner,

v.

**CIVIL ACTION NO. 3:04CV37
CRIMINAL ACTION NO. 3:02CR45
(BROADWATER)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated September 27, 2005. The petitioner filed objections on October 5, 2005. The United States filed objections on October 6, 2005. In the interests of justice and in accordance with 28 U.S.C. § 636(b)(1), the Court has conducted a *de novo* review. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court further **ORDERS**

- 1) petitioner's § 2255 motion is **GRANTED**, and this Court shall issue a new Judgment and Commitment Order so to provide defendant this opportunity to file a direct appeal with the United States Court of Appeals for the Fourth Circuit;
- 2) petitioner's August 9, 2004 motion to amend (**Docket # 161**) is **DENIED**;
- 3) petitioner's December 6, 2004 motion to amend (**Docket # 173**) is **GRANTED**;
- 4) petitioner's September 19, 2005 motion to amend (**Docket # 197**) is **GRANTED** and

5) petitioner's request for appointment of counsel (**Docket # 163**) is **DENIED**.

It is further ordered this matter be **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 16th day of December 2005.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE